

ASSEMBLY BILL

No. 27

Introduced by Assembly Member Parra

December 2, 2002

An act to amend Section 290.4 of the Penal Code, relating to sex offender registration.

LEGISLATIVE COUNSEL'S DIGEST

AB 27, as introduced, Parra. Sex offender registration.

Existing law requires the Department of Justice to continually compile specified information categorized by community of residence and ZIP Code regarding any person required to register as a sex offender for a conviction for the commission or attempted commission of any of specified sex offense. Existing law requires the Department of Justice to provide a CD-ROM or other electronic medium containing the compiled sex offender information to certain law enforcement agencies. These law enforcement agencies are required to make the CD-ROM or other electronic medium available for public viewing, as specified. Existing law provides for various crimes for misuse and improper acquisition of the compiled information. Existing law provides that all these provisions shall remain operative until January 1, 2004, and as of that date are repealed.

This bill would eliminate that repeal.

By extending the operation of provisions that impose duties on local officers and by extending the operation of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290.4 of the Penal Code is amended to
2 read:
3 290.4. (a) (1) The Department of Justice shall continually
4 compile information as described in paragraph (2) regarding any
5 person required to register under Section 290 for a conviction of
6 Section 207 or 209 committed with the intent to violate Section
7 261, 286, 288, 288a, or 289; Section 220, except assault to commit
8 mayhem; Section 243.4, provided that the offense is a felony;
9 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261;
10 Section 264.1; Section 266, provided that the offense is a felony;
11 Section 266c, provided that the offense is a felony; Section 266j;
12 Section 267; Section 269; paragraph (1) of subdivision (b) of
13 Section 286, provided that the offense is a felony; paragraph (2)
14 of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of
15 Section 286; Section 288; paragraph (1) of subdivision (b) of
16 Section 288a, provided that the offense is a felony; paragraph (2)
17 of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a;
18 Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of
19 Section 289, provided that the offense is a felony; subdivision (i)
20 or (j) of Section 289; Section 647.6; or the attempted commission
21 of any of these offenses; or the statutory predecessor of any of
22 these offenses or any offense which, if committed or attempted in
23 this state, would have been punishable as one or more of the
24 offenses described in this section. This requirement shall not be
25 applied to a person whose duty to register has been terminated



1 pursuant to paragraph (5) of subdivision (d) of Section 290, or to
2 a person who has been relieved of his or her duty to register under
3 Section 290.5.

4 (2) The information shall be categorized by community of
5 residence and ZIP Code. The information shall include the names
6 and known aliases of the person, photograph, a physical
7 description, gender, race, date of birth, the criminal history, and the
8 address, including ZIP Code, in which the person resides, and any
9 other information that the Department of Justice deems relevant,
10 not including information that would identify the victim.

11 (3) The department shall operate a “900” telephone number
12 that members of the public may call and inquire whether a named
13 individual is listed among those described in this subdivision. The
14 caller shall furnish his or her first name, middle initial, and last
15 name. The department shall ascertain whether a named person
16 reasonably appears to be a person so listed and provide the caller
17 with the information described in paragraph (2), except the
18 department shall not disclose the name or address of a listed
19 person’s employer, or the street address or criminal history of a
20 person listed, except to disclose the ZIP Code area in which the
21 person resides and to describe the specific crimes for which the
22 registrant was required to register. The department shall decide
23 whether the named person reasonably appears to be a person listed,
24 based upon information from the caller providing information that
25 shall include (A) an exact street address, including apartment
26 number, social security number, California driver’s license or
27 identification number, or birth date along with additional
28 information that may include any of the following: name, hair
29 color, eye color, height, weight, distinctive markings, ethnicity; or
30 (B) any combination of at least six of the above listed
31 characteristics if an exact birth date or address is not available. If
32 three of the characteristics provided include ethnicity, hair color,
33 and eye color, a seventh identifying characteristic shall be
34 provided. Any information identifying the victim by name, birth
35 date, address, or relation to the registrant shall be excluded by the
36 department.

37 (4) (A) On or before July 1, 1997, the department shall provide
38 a CD-ROM or other electronic medium containing the information
39 described in paragraph (2), except the name or address of a listed
40 person’s employer, or the listed person’s street address and

1 criminal history other than the specific crimes for which the person
2 was required to register, for all persons described in paragraph (1)
3 of subdivision (a), and shall update and distribute the CD-ROM or
4 other electronic medium on a monthly basis to the sheriff's
5 department in each county, municipal police departments of cities
6 with a population of more than 200,000, and each law enforcement
7 agency listed in subparagraph (I) of paragraph (1) of subdivision
8 (n) of Section 290. These law enforcement agencies may obtain
9 additional copies by purchasing a yearly subscription to the
10 CD-ROM or other electronic medium from the Department of
11 Justice for a yearly subscription fee. The Department of Justice,
12 the ~~sheriff's~~ *sheriffs'* departments, and the municipal police
13 departments of cities with a population of more than 200,000 shall
14 make, and the other law enforcement agencies may make, the
15 CD-ROM or other electronic medium available for viewing by the
16 public in accordance with the following: The agency may require
17 that a person applying to view the CD-ROM or other electronic
18 medium express an articulable purpose in order to have access
19 thereto. The applicant shall provide identification in the form of
20 a California driver's license, California identification card, or
21 military identification card and orders with proof of permanent
22 assignment or attachment to a military command or vessel in
23 California, showing the applicant to be at least 18 years of age. The
24 applicant shall sign a statement, on a form provided by the
25 Department of Justice, stating that the applicant is not a registered
26 sex offender, that he or she understands the purpose of the release
27 of information is to allow members of the public to protect
28 themselves and their children from sex offenders, and he or she
29 understands it is unlawful to use information obtained from the
30 CD-ROM or other electronic medium to commit a crime against
31 any registrant or to engage in illegal discrimination or harassment
32 of any registrant. The signed statement shall be maintained in a file
33 in the designated law enforcement agency's office. A person under
34 18 years of age may accompany an applicant who is that person's
35 parent or legal guardian for the purpose of viewing the CD-ROM
36 or other electronic medium.

37 (B) The records of persons requesting to view the CD-ROM or
38 other electronic medium are confidential, except that a copy of the
39 applications requesting to view the CD-ROM or other electronic

1 medium may be disclosed to law enforcement agencies for law
2 enforcement purposes.

3 (C) Any information identifying the victim by name, birth date,
4 address, or relationship to the registrant shall be excluded from the
5 CD-ROM or other electronic medium.

6 (5) (A) The income from the operation of the “900” telephone
7 number shall be deposited in the Sexual Predator Public
8 Information Account, which is hereby established within the
9 Department of Justice for the purpose of the implementation of this
10 section by the Department of Justice, including all actual and
11 reasonable costs related to establishing and maintaining the
12 information described in subdivision (a) and the CD-ROM or
13 other electronic medium described in this subdivision.

14 (B) The moneys in the Sexual Predator Public Information
15 Account shall consist of income from the operation of the “900”
16 telephone number program authorized by this section, proceeds of
17 the loan made pursuant to Section 6 of the act adding this section,
18 and any other funds made available to the account by the
19 Legislature. Moneys in the account shall be available to the
20 Department of Justice upon appropriation by the Legislature for
21 the purpose specified in subparagraph (A).

22 (C) When the “900” telephone number is called, a preamble
23 shall be played before charges begin to accrue. The preamble shall
24 run at least the length of time required by federal law and shall
25 provide the following information:

26 (i) Notice that the caller’s telephone number will be recorded.

27 (ii) The charges for use of the “900” telephone number.

28 (iii) Notice that the caller is required to identify himself or
29 herself to the operator.

30 (iv) Notice that the caller is required to be 18 years of age or
31 older.

32 (v) A warning that it is illegal to use information obtained
33 through the “900” telephone number to commit a crime against
34 any registrant or to engage in illegal discrimination or harassment
35 against any registrant.

36 (vi) Notice that the caller is required to have the birth date,
37 California driver’s license or identification number, social security
38 number, address, or other identifying information regarding the
39 person about whom information is sought in order to achieve a
40 positive identification of that person.

1 (vii) A statement that the number is not a crime hotline and that
2 any suspected criminal activity should be reported to local
3 authorities.

4 (viii) A statement that the caller should have a reasonable
5 suspicion that a person is at risk.

6 (D) The Department of Justice shall expend no more than six
7 hundred thousand dollars (\$600,000) per year from any moneys
8 appropriated by the Legislature from the account.

9 (b) (1) Any person who uses information disclosed pursuant to
10 this section to commit a felony shall be punished, in addition and
11 consecutive to, any other punishment, by a five-year term of
12 imprisonment in the state prison.

13 (2) Any person who, without authorization, uses information
14 disclosed pursuant to this section to commit a misdemeanor shall
15 be subject to, in addition to any other penalty or fine imposed, a
16 fine of not less than five hundred dollars (\$500) and not more than
17 one thousand dollars (\$1,000).

18 (c) The record of the compilation of offender information on
19 each CD-ROM or other electronic medium distributed pursuant to
20 this section shall be used only for law enforcement purposes and
21 the public safety purposes specified in this section and Section
22 290. This record shall not be distributed or removed from the
23 custody of the law enforcement agency that is authorized to retain
24 it. Information obtained from this record shall be disclosed to a
25 member of the public only as provided in this section or Section
26 290, or any other statute expressly authorizing it.

27 Any person who copies, distributes, discloses, or receives this
28 record or information from it, except as authorized by law, is guilty
29 of a misdemeanor, punishable by imprisonment in a county jail not
30 to exceed six months, or by a fine not exceeding one thousand
31 dollars (\$1,000), or by both that imprisonment and fine. This
32 subdivision shall not apply to a law enforcement officer who
33 makes a copy as part of his or her official duties in the course of
34 a criminal investigation, court case, or as otherwise authorized by
35 subdivision (n) of Section 290. This subdivision shall not prohibit
36 copying information by handwriting.

37 Notwithstanding Section 6254.5 of the Government Code,
38 disclosure of information pursuant to this section is not a waiver
39 of exemptions under Chapter 3.5 (commencing with Section
40 6250) of Title 1 of Division 7 of the Government Code and does



1 not affect other statutory restrictions on disclosure in other
2 situations.

3 (d) Unauthorized removal or destruction of the CD-ROM or
4 other electronic medium from the offices of any law enforcement
5 agency is a misdemeanor, punishable by imprisonment in a county
6 jail not to exceed one year, or by a fine not exceeding one thousand
7 dollars (\$1,000), or by both that imprisonment and fine.

8 (e) (1) A person is authorized to use information disclosed
9 pursuant to this section only to protect a person at risk.

10 This section shall not affect authorized access to, or use of,
11 information pursuant to, among other provisions, Sections 11105
12 and 11105.3 of this code, Section 226.55 of the Civil Code,
13 Sections 777.5 and 14409.2 of the Financial Code, Sections
14 1522.01 and 1596.871 of the Health and Safety Code, and Section
15 432.7 of the Labor Code.

16 (2) Except as authorized under paragraph (1) or any other
17 provision of law, use of any information that is disclosed pursuant
18 to this section for purposes of relating to any of the following is
19 prohibited:

20 (A) Health insurance.

21 (B) Insurance.

22 (C) Loans.

23 (D) Credit.

24 (E) Employment.

25 (F) Education, scholarships, or fellowships.

26 (G) Housing or accommodations.

27 (H) Benefits, privileges, or services provided by any business
28 establishment.

29 (3) (A) Any use of information disclosed pursuant to this
30 section for purposes other than those provided by paragraph (1) of
31 subdivision (e) or in violation of paragraph (2) of subdivision (e)
32 shall make the user liable for the actual damages, and any amount
33 that may be determined by a jury or a court sitting without a jury,
34 not exceeding three times the amount of actual damage, and not
35 less than two hundred fifty dollars (\$250), and attorney's fees,
36 exemplary damages, or a civil penalty not exceeding twenty-five
37 thousand dollars (\$25,000).

38 (B) Whenever there is reasonable cause to believe that any
39 person or group of persons is engaged in a pattern or practice of
40 misuse of the "900" telephone number in violation of paragraph

1 (2) of subdivision (e), the Attorney General, any district attorney,
2 or city attorney, or any person aggrieved by the misuse of that
3 number is authorized to bring a civil action in the appropriate court
4 requesting preventive relief, including an application for a
5 permanent or temporary injunction, restraining order, or other
6 order against the person or group of persons responsible for the
7 pattern or practice of misuse. The foregoing remedies shall be
8 independent of any other remedies or procedures that may be
9 available to an aggrieved party under other provisions of law,
10 including Part 2 (commencing with Section 43) of Division 1 of
11 the Civil Code.

12 (f) This section shall not be deemed to authorize the
13 publication, distribution, or disclosure of the address of any person
14 about whom information can be published, distributed, or
15 disclosed pursuant to this section.

16 (g) Community notification shall be governed by subdivisions
17 (m) and (n) of Section 290.

18 (h) The Department of Justice shall submit to the Legislature
19 an annual report on the operation of the “900” telephone number
20 required by paragraph (3) of subdivision (a) on July 1, 1996, July
21 1, 1997, and July 1, 1998. The annual report shall include all of the
22 following:

23 (1) Number of calls received.

24 (2) Amount of income earned per year through operation of the
25 “900” telephone number.

26 (3) A detailed outline of the amount of money expended and the
27 manner in which it was expended for purposes of this section.

28 (4) Number of calls that resulted in an affirmative response and
29 the number of calls that resulted in a negative response with regard
30 to whether a named individual was listed pursuant to subdivision
31 (a).

32 (5) Number of persons listed pursuant to subdivision (a).

33 (6) A summary of the success of the “900” telephone number
34 program based upon selected factors.

35 (i) Any law enforcement agency and employees of any law
36 enforcement agency shall be immune from liability for good faith
37 conduct under this section. For the purposes of this section, “law
38 enforcement agency” means the Attorney General of California,
39 every district attorney, the Department of Corrections, the
40 Department of the Youth Authority, and every state or local agency

1 expressly authorized by statute to investigate or prosecute law
2 violators.

3 (j) On or before July 1, 2000, the Department of Justice shall
4 make a report to the Legislature concerning the changes to the
5 operation of the “900” telephone number program made by the
6 amendments to this section by Chapter 908 of the Statutes of 1996.
7 The report shall include all of the following:

8 (1) Number of calls received by county.

9 (2) Number of calls that resulted in an affirmative response and
10 the number of calls that resulted in a negative response with regard
11 to whether a named individual was listed pursuant to subdivision
12 (a).

13 (3) Number of persons listed pursuant to subdivision (a).

14 (4) Statistical information concerning prosecutions of persons
15 for misuse of the “900” telephone number program, including the
16 outcomes of those prosecutions.

17 (5) A summary of the success of the “900” telephone number
18 based upon selected factors.

19 (k) The registration and public notification provisions of this
20 section are applicable to every person described in these sections,
21 without regard to when his or her crimes were committed or his or
22 her duty to register pursuant to this section arose, and to every
23 offense described in these sections, regardless of when it was
24 committed.

25 (l) No later than December 31, 1998, the Department of Justice
26 shall prepare an informational pamphlet that shall be mailed to any
27 member of the public who makes an inquiry using the “900”
28 telephone number required by this section and who provides an
29 address. The pamphlet shall provide basic information concerning
30 appropriate steps parents, guardians, and other responsible adults
31 can take to ensure a child is safe from a suspected child molester,
32 including, but not limited to, how to identify suspicious activity by
33 an adult, common facts and myths about child molesters, and how
34 to obtain additional help and information. A notice to callers to the
35 “900” telephone number that they will receive the pamphlet, if an
36 address is provided, shall be included in the preamble required by
37 this section.

38 (m) On or before July 1, 2001, and every year thereafter, the
39 Department of Justice shall make a report to the Legislature
40 concerning the operation of this section.

~~(n) This section shall remain operative only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.~~

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

